

Application Serial Number 10/808,254
Response to Office Action
Dated March 26, 2007

REMARKS / DISCUSSION OF ISSUES

Claims 1-28 are presently under consideration in the application. Claims 1 and 28 are independent.

Amendments to the Specification

The amendment to paragraph [0010] updates the priority data for the present case.

Rejections Under 35 U.S.C. § 102

Claims 1-22 and 24-28 were rejected under 35 U.S.C. § 102(b) as being unpatentable in view of Hernday, et al. (U.S. Patent 5,041,997). For at least the reasons set forth above, all claims are patentable over the applied art.

At the outset Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Claim 1, as amended, features:

a first output port configured to output a first reference digital test signal; a first input port configured to input a second reference digital test signal; and a second output port configured to output a first stressed digital test signal, wherein the second reference

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digital test signal is based on the first reference digital test signal and the first stressed digital test signal is based on the second reference test signal.

Claim 28 is drawn to a method and includes similar features.

The applied art is drawn to a lightwave component analyzer. A review of the applied art does not reveal the disclosure of reference digital test signals or of stressed digital test signals. Accordingly, Applicants respectfully submit that the applied art fails to disclose at least one feature of claims 1 and 28. Thus, claims 1 and 28 are patentable over the applied art. Moreover, claims 2-27, which depend from claim 1 directly or indirectly are also patentable for at least the same reasons. Finally, the rejections of claim 23 under 35 U.S.C. § 103(a) is believed moot as this claim also depends from claim 1.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

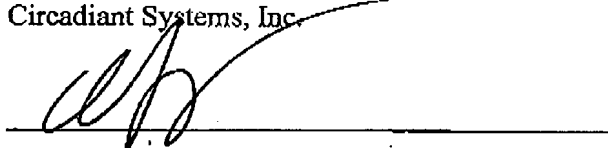
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If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

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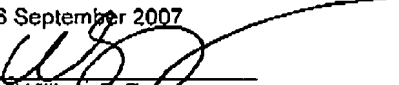
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On: 26 September 2007

By:


William S. Francos